

ESTTA Tracking number: **ESTTA596119**

Filing date: **04/02/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Sal's Pizza Restaurant, Inc.
Granted to Date of previous extension	04/02/2014
Address	2525 Wycliff Dallas, TX 75219 UNITED STATES
Attorney information	Shauna M. Wertheim The Marbury Law Group, PLLC 11800 Sunrise Valley Drive 15th Floor Reston, VA 20191 UNITED STATES tm-docketing@marburylaw.com Phone:(703) 391-2900

### Applicant Information

Application No	85809340	Publication date	12/03/2013
Opposition Filing Date	04/02/2014	Opposition Period Ends	04/02/2014
Applicant	BB and CC Inc. 1821 E. Sedgley Avenue Philadelphia, PA 19124 NJ		

### Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Processed meat, processed cheese spread
Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Frozen sandwiches

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2740963	Application Date	07/10/2000
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	SAL'S		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1982/03/01 First Use In Commerce: 1982/03/01 RESTAURANT SERVICES FEATURING PIZZA AND ITALIAN FOODS

Attachments	76086203#TMSN.gif( bytes ) Notice of Opp_02 APR 2014.pdf(486230 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Shauna M. Wertheim/
Name	Shauna M. Wertheim
Date	04/02/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of Application Serial No. 85/809,340  
For the Trademark: **SAL'S**  
Published in the Official Gazette on December 3, 2013

SAL'S PIZZA RESTAURANT, INC.	)	
	)	
	)	
<i>Opposer,</i>	)	Opposition No. _____
	)	
v.	)	
	)	
BB and CC Inc.	)	
	)	
<i>Applicant.</i>	)	

**NOTICE OF OPPOSITION**

Opposer Sal's Pizza Restaurant, Inc., a corporation of Texas with its principal place of business at 2525 Wycliff, Dallas, Texas 75219, believes it will be damaged by registration of the mark "SAL'S" ("Applicant's Mark") as applied for in Serial No. 85/809,340 filed on December 21, 2012 by Applicant BB and CC, Inc. ("Applicant").

As grounds for opposition, Opposer alleges as follows:

1. On information and belief, Applicant is a New Jersey corporation with a mailing address at 1821 E. Sedgley Avenue, Philadelphia, Pennsylvania 19124.
2. Applicant filed Serial No. 85/809,340 on December 21, 2012 seeking registration of SAL'S for "processed meat, processed cheese spread, frozen sandwiches and restaurant services" in International Class 29. On October 9, 2013, Applicant amended its application to delete "restaurant services," and to place "processed meat" and "processed cheese spread" in

Class 29, and "frozen sandwiches" in Class 30, which amendments were accepted by the USPTO on October 11, 2013.

3. Applicant's Mark was published in the *Official Gazette* on December 3, 2013.

4. Opposer is the owner of incontestable U.S. Trademark Registration No. 2,740,963 for SAL'S for "restaurant services featuring pizza and Italian foods" in Class 43. This registration is valid, subsisting, uncanceled and conclusive evidence of Opposer's exclusive right to use SAL's in commerce or in connection with the goods/services specified in the registration. A true and correct copy of Opposer's registration is attached hereto as Exhibit A, and incorporated by reference as though fully set forth herein.

5. Since at least as early as March 1, 1982, Opposer adopted and has continuously used its SAL'S mark in connection with restaurant services featuring pizza and Italian foods.

6. Opposer has invested substantial amounts of time, effort and money in developing, marketing, promoting and protecting its SAL'S mark in the field of restaurant services featuring pizza and Italian foods.

7. Applicant has no license, consent or permission from Opposer to use or register SAL'S.

8. Applicant's mark so resembles Opposer's mark SAL'S and covers related goods that it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, Applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods in Serial No. 85/809,340 originate with or are affiliated with Opposer, or otherwise are authorized, licensed or sponsored by Opposer.


9. By reason of the foregoing, Opposer will be gravely damaged by the registration of SAL'S for the goods in Serial No. 85/809,340, because registration of that mark would be in violation of Opposer's trademark rights.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained in favor of Opposer and that Serial No. 85/809,340 be denied registration.

Dated: April 2, 2014

Respectfully submitted,

SAL'S PIZZA RESTAURANT, INC.

By:   
Shauna M. Wertheim  
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15<sup>th</sup> Floor  
Reston, Virginia 20191  
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(703) 391-2901 (fax)  
*Attorney for Opposer Sal's Pizza Restaurant, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of April, 2014, I caused a true and correct copy of the foregoing Notice of Opposition, together with Exhibit A thereto, to be served by first-class mail, postage prepaid upon:

Jeffrey L. Eichen  
Novak Druce Connolly Bove + Quigg LLP  
P.O. Box 2207  
Wilmington, DE 19899-2207

*Attorneys for Applicant*

  
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Shauna M. Wertheim

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

**United States Patent and Trademark Office**

**Reg. No. 2,740,963**

Registered July 29, 2003

**SERVICE MARK  
PRINCIPAL REGISTER**

**SAL'S**

SAL'S PIZZA RESTAURANT, INC. (TEXAS CORPORATION)  
2525 WYCLIFF  
DALLAS, TX 75219

FIRST USE 3-1-1982; IN COMMERCE 3-1-1982.

SER. NO. 76-086,203, FILED 7-10-2000.

FOR: RESTAURANT SERVICES FEATURING  
PIZZA AND ITALIAN FOODS, IN CLASS 43 (U.S.  
CLS. 100 AND 101).

YSA DEJESUS, EXAMINING ATTORNEY

